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UNITED NATIONS STANDARDS AND NORMS IN THE FIELD OF CRIME PREVENTION AND CRIMINAL JUSTICE

Existing United Nations standards and norms, which serve as recommendations to Member States, in the field of crime prevention and criminal justice in the light of and including their use and application

Report of the Secretary-General

Summary

The present report provides a description of achievements and problems in the application of United Nations standards and norms in crime prevention and criminal justice. It includes ways and means of promoting their implementation and of strengthening existing review procedures. Special attention is accorded to new mandates given by the Economic and Social Council in this area, including the decision of the Council, in its resolution 1992/22, section VII, of 30 July 1992, that the Commission on Crime Prevention and Criminal Justice should include in its agenda a standing item on that subject.

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INTRODUCTION

1. In pursuance of Economic and Social Council resolution 1992/22, section VII, of 30 July 1992, the present report contains an overview of the application of existing United Nations standards and norms in the field of crime prevention and crim ıal justice, which serve as recommendations to Member States.

2. Since its foundation, the United Nations crime prevention and criminal justice programme, drawing on the principles of the Charter of the United Nations and the International Bill of Human Rights, has formulated numerous international principles, standards and guidelines in crime prevention and criminal justice. Most of those instruments provide a universally accepted interpretation of rights contained in the Universal Declaration of Human Rights, adopted by the General Assembly in its resolution 217 A (III) of 10 December 1948, and the International Covenant on Civil and Political Rights and the Optional Protocols thereto, adopted by the General Assembly in its resolutions 2200 A (XXI) of 16 December 1966 and 44/128 of 15 December 1989, including the following: the right to life, liberty and security of person; the prohibition of torture and of arbitrary arrest or detention; the right to a fair and public hearing by an independent and impartial tribunal; the presumption of innocence until proved guilty; the prohibition of retroactivity of criminal sanctions; the right to equal treatment before the law, courts and tribunals; and minimum rights guarantees in criminal proceedings, as embodied in article 14 of the Covenant.

3. The United Nations congresses on the prevention of crime and the treatment of offenders have contributed to the process of standard-setting. The First United Nations Congress on the Prevention of Crime and the Treatment of Offenders, held at Geneva from 22 August to 3 September 1955, adopted the Standard Minimum Rules for the Treatment of Prisoners, 1/ which were subsequently approved by the Economic and Social Council in its resolution 663 C (XXIV) of 6 November 1974. In accordance with the recommendations of the congresses, other important instruments have been adopted in more recent years, such as the Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which was adopted by the General Assembly in its resolution 3452 (XXX) of 9 December 1975 and subsequently developed by the Commission on Human Rights into the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which, in turn, was adopted by the General Assembly in its resolution 39/46 of 19 December 1984; the Code of Conduct for Law Enforcement Officials, adopted by the General Assembly in its resolution 34/169 of 17 December 1979; the safeguards guaranteeing protection of the rights of those facing the death penalty, approved by the Economic and Social Council in its resolution 1984/50 of 24 May 1989; and the Procedures for the Effective Implementation of the Standard Minimum Rules for the Treatment of Prisoners, approved by the Economic and Social Council in its resolution 1984/47 of 25 May 1984.

4. The Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders, held at Milan from 26 August to 6 September 1985, adopted the Basic Principles on the Independence of the Judiciary, which were subsequently endorsed by the General Assembly in its resolutions 40/32 of 29 November 1985 and 40/146 of 13 December 1985, and the Model Agreement on the Transfer of Foreign prisoners and recommendations on the treatment of foreign prisoners. On the recommendation of the Seventh Congress, the General

Assembly adopted, in its resolution 40/33 of 29 November 1985, the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules) and, in its resolution 40/34 of 29 November 1985, the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power.

5. On the recommendation of the former Committee on Crime Prevention and Control, the Economic and Social Council recommended, in its resolution 1989/65 of 24 May 1989, that the Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions should be taken into account and respected by Governments and adopted, in its resolution 1989/60 of 24 May 1989, the Procedures for the Effective Implementation of the Basic Principles on the Independence of the Judiciary and, in its resolution 1989/61 of 24 May 1989, the Guidelines for the Effective Implementation of the Code of Conduct for Law Enforcement Officials. The Council also adopted resolution 1989/57 of 24 May 1989, on the implementation of the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, and resolution 1989/66 of 24 May 1989, on the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules). The General Assembly, in its resolution 44/162 of 15 December 1989, endorsed Economic and Social Council resolutions 1989/57, 1989/60 and 1989/61 and the Principles on the Effective Prevention and Investigations of Extra-legal, Arbitrary and Summary Executions, annexed to Economic and Social Council resolution 1989/65 of 24 May 1989.

6. The Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, held at Havana from 27 August to 7 September 1990, adopted the Basic Principles on the Role of Lawyers; the Guidelines on the Role of Prosecutors; the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials; and the model treaty for the prevention of crimes that infringe on the cultural heritage of peoples in the form of movable property. On the recommendation of the Eighth Congress, the General Assembly affirmed, in its resolution 45/111 of 14 December 1990, the Basic Principles for the Treatment of Prisoners and adopted, in its resolution 45/112 of 14 December 1990, the United Nations Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines); in its resolution 45/113 of 14 December 1990, the United Nations Rules for the Protection of Juveniles Deprived of their Liberty; in its resolution 45/110 of 14 December 1990, the United Nations Standard Minimum Rules for Non-custodial Measures (the Tokyo Rules); in its resolution 45/116 of 14 December 1990, the Model Treaty on Extradition; in its resolution 45/117 of 14 December 1990, the Model Treaty on Mutual Assistance in Criminal Matters; in its resolution 45/118 of 14 December 1990, the Model Treaty on the Transfer of Proceedings in Criminal Matters; in its resolution 45/119 of 14 December 1990, the Model Treaty on the Transfer of Supervision of Offenders Conditionally Sentenced or Conditionally Released. The Economic and Social Council also adopted resolution 1990/22 of 24 May 1990, on victims of crime and abuse of power.

7. In accordance with Economic and Social Council resolution 1989/63 of 24 May 1989, the Secretary-General has published in English a Compendium of United Nations Norms and Standards in Crime Prevention and Criminal Justice, 2/ copies of which were made available to the Commission on Crime Prevention and Criminal Justice at its first session. Translation of the Compendium into other languages would increase the awareness of United Nations standards on crime prevention and criminal justice in all regions of the world, particularly among persons interested in effectively controlling crime and protecting

human rights in the administration of justice. United Nations standards, norms, guidelines and model treaties in crime prevention and criminal justice are listed according to subject in annex I. An overview of their reporting cycles is contained in annex II.

8. While United Nations norms, standards and guidelines in crime prevention and criminal justice have been successfully implemented in many countries, there are still major shortfalls in their application and use in several parts of the world. In recent years, the extension and upgrading of standards have changed the situation considerably. More work needs to be done to promote the use and application of the existing standards at the national level, including, when requested, the organization of training courses, seminars and advisory services that would help to translate them into practice.

9. It has been repeatedly emphasized that more effective methods of implementation should be explored. While the actual application of the norms, standards and guidelines rests on efforts at the national level, their dissemination and promotion have been effected largely by the United Nations.

10. In overseeing implementation, the reporting system used prior to the formation of the Commission relied basically on replies of Governments to periodic United Nations questionnaires. Such replies could be relied on only to a limited extent because of their small number (see annex III), the incompleteness or unreliability of many of the replies and the lack of effective evaluation procedures.

11. In addition to the application of United Nations standards and norms at the national level, there is a need for effective means of implementing the model treaties designed to facilitate bilateral and multilateral cooperation. The General Assembly, in the statement of principles and programme of action of the United Nations crime prevention and criminal justice programme, annexed to its resolution 46/152 of 18 December 1991, acknowledged the contribution of the United Nations crime prevention and criminal justice programme to the international community. The further development of capacities to implement the model treaties and to train personnel in their work should foster joint action on transnational crime problems that, as has been constantly recognized, cannot be dealt with adequately by individual States.

12. The model treaties reflect the view, shared by the Commission at its first session, that the programme should become more practically oriented in raising professionalism of criminal justice personnel with respect to their functions, without losing sight of its humanitarian tradition. Although the model treaties are oriented towards greater cooperation between law enforcement, prosecutorial, social and corrections systems, they specifically deal with human rights aspects. For example, in the Model Treaty on Extradition, principles such as ne bis in idem and the political offence exception are maintained, and the Model Agreement on the Transfer of Foreign Prisoners precludes such transfer without the consent of the person to be transferred.

I. EFFORTS TO ENHANCE IMPLEMENTATION

13. In order to shift the focus of the crime prevention and criminal justice programme from a largely resolution-oriented approach to concrete task-oriented activities, various efforts have been made. These include the convening of expert group meetings to consider alternative suggestions for future action.

A. Meeting of the pre-sessional working group of the former Committee on Crime Prevention and Control at its eleventh session

1. Establishment

14. As a consequence of the adoption of additional standards, norms and model treaties by the Seventh Congress and the Eighth Congress and their subsequent endorsement by the General Assembly, the question of implementation is becoming increasingly important.

15. The former Committee on Crime Prevention and Control, in its resolution 10/1 of 31 August 1988, requested that the Chairman of the Committee appoint a subcommittee that, working in collaboration with the directors of the regional and interregional crime prevention and criminal justice institutes: (a) would provide an overview of the magnitude of the problem of crime from economic, criminological, social and juridical aspects; (b) would assess the most efficient means of stimulating practical international action and, in particular, the role of the United Nations in that regard; and (c) would make recommendations to the Committee, at its eleventh session, concerning the most effective mechanism for the implementation of the conclusions of the overview.

16. In response, the Economic and Social Council, in its resolution 1989/63 of 24 May 1989, inter alia, requested the Secretary-General to establish pre-sessional working groups of the Committee. Following that request, a pre-sessional open-ended working group on implementation of United Nations standards and norms in crime prevention and criminal justice was established. The working group was composed of five Committee members, appointed by the Chairman of the Committee. Three other Committee members and observers for 10 States and 2 non-governmental organizations also participated in the working group. The working group held its only session on 1 and 2 February 1990, immediately preceding the eleventh and last session of the Committee.

2. Recommendations and follow-up

17. The working group agreed that United Nations standards and norms formed a set of policy guidelines whose moral importance and value as prototypes reflected the "conscience" of the international community. It was stressed that the successful future evolution of the United Nations standard-setting and implementation programme in crime prevention and criminal justice required the acknowledgement of existing problems and the pursuit of more effective arrangements, particularly in the area of technical cooperation and advisory services.

18. Although the limited time available did not allow the working group to draw up specific proposals for the detailed administration, timetable and costs of an implementation programme, the working group did suggest an approach that the Commission might wish to consider. That approach included reconsideration of the procedure of the reporting system and the classification of United Nations standards and norms (for details, see the report of the working group (E/AC.57/1990/WG.2)).

19. Subsequently, the Economic and Social Council, in its resolution 1990/21 of 24 May 1990, inter alia, urged the former Committee: (a) to continue reviewing the standards and to follow-up their implementation; (b) to make recommendations on their future application; and (c) to identify existing obstacles to, or shortcomings in, their implementation, inter alia through

contacts with the Governments of the countries concerned, with a view to suggesting appropriate remedies.

20. In the same resolution, the Council authorized the continuation of the practice of convening pre-sessional working groups, without financial implications for the United Nations, to assist the Committee in reviewing the implementation of United Nations standards and norms.

B. Meeting of Experts for the Evaluation of United Nations Norms and Guidelines in Crime Prevention and Criminal Justice

21. A Meeting of Experts for the Evaluation of Implementation of United Nations Norms and Guidelines in Crime Prevention and Criminal Justice was held at Vienna from 14 to 16 October 1991 (see E/CN.15/1992/4/Add.4). The Meeting was organized on the initiative of the Government of the United Kingdom of Great Britain and Northern Ireland, in cooperation with the Government of Canada and the Helsinki Institute for Crime Prevention and Control, affiliated with the United Nations (HEUNI). The Meeting was attended by 23 experts from various regions and representatives from four non-governmental organizations.

22. There was consensus as to the importance of implementing United Nations standards and guidelines. There was also agreement that the most useful way to do so was to give priority in the immediate future to bilateral, regional and multilateral technical cooperation.

23. The participants considered that the system of implementation could be rationalized by coordinating requests for information on standards or resolutions in similar fields and by ensuring better coordination with other agencies in the United Nations system dealing with those standards or resolutions. The regional institutes were thought to be capable of playing a greater role in coordinating replies from Member States in their regions and in providing technical assistance to them.

24. The Meeting suggested, inter alia, that the proposed Commission on Crime Prevention and Criminal Justice might wish:

(a) To focus attention on and secure adequate resources for the implementation and monitoring of United Nations standards and to ensure substantial involvement of the interregional and regional institutes, and, as appropriate, intergovernmental and non-governmental organizations, in the implementation and monitoring processes;

(b) To establish a subgroup, which should include qualified and experienced experts, to advise it and prepare its work on promotion, implementation and monitoring, including policy and practice, and to play an active role in the development of monitoring and implementation mechanisms to assist the Commission and Member States;

(c) To appoint special rapporteurs or advisers, or to establish working groups, to deal with specific issues relating to implementation and monitoring:

(i) To assess adherence to standards in a particular country or region or in relation to a particular theme;

(ii) To assess the results of technical cooperation in the implementation of one or more of the United Nations standards.

25. The above suggestions were made prior to the determination of priorities by the Commission at its first session.

II. RECOMMENDATIONS OF THE MINISTERIAL MEETING ON THE CREATION OF AN EFFECTIVE UNITED NATIONS CRIME PREVENTION AND CRIMINAL JUSTICE PROGRAMME, APPROVED BY THE GENERAL ASSEMBLY

26. At the Ministerial Meeting on the Creation of an Effective United Nations Crime Prevention and Criminal Justice Programme, held in Paris from 21 to 23 November 1991, the importance of the United Nations standards in the field of crime prevention and criminal justice was widely acknowledged. Attention was also drawn to the complementarity of the contributions of the United Nations crime prevention and criminal justice programme with the activities of the human rights programme (see A/46/703 and Corr.1). It was felt that the advisory services and technical assistance programmes in both sectors could, with sufficient resources, play a vital role in helping States to combat crime and promote respect for human rights and fundamental freedoms.

27. The General Assembly, in its resolution 46/152, took note with appreciation of the report of the Ministerial Meeting and approved the statement of principles and programme of action of the United Nations crime prevention and criminal justice programme, annexed to that resolution. In the statement of principles and programme of action, an effective United Nations crime prevention and criminal justice programme was recommended. The general goals of the programme were defined to include (a) the strengthening of regional and international cooperation in crime prevention, criminal justice and the combating of transnational crime; (b) more efficient and effective administration of justice, with due respect for the human rights of all those affected by crime and all those involved in the criminal justice system; and (c) the promotion of the highest standards of fairness, humanity, justice and professional conduct.

28. In the statement of principles and programme of action, it was also envisaged that the United Nations crime prevention and criminal justice programme might embark, while respecting the sovereignty of States, on a review of the effectiveness and application and, where necessary, the further development and promotion of international instruments on crime prevention and criminal justice. In developing the programme, areas of priority should be determined in response to the needs and concerns of Member States, giving particular consideration to certain criteria, one of which was the protection of human rights in the administration of justice and the prevention and control of crime.

III. RECOMMENDATIONS OF THE COMMISSION, ADOPTED BY THE ECONOMIC AND SOCIAL COUNCIL

29. At the first session of the Commission on Crime Prevention and Criminal Justice, most participants expressed the view that the body of existing United Nations standards, norms and guidelines were useful for upgrading national practice. The common understanding was that the implementation of the standards and norms should, for the present, take precedence over further standard-setting. It was also acknowledged in the discussion that the system of monitoring by the use of questionnaires had not proved to be efficient. It was suggested that a more reliable and effective monitoring system should be

developed, one that would include, for example, the designation of special rapporteurs, working groups or other options, as well as assistance of the institutes and exchange of information on implementation.

30. On the recommendation of the Commission, the Economic and Social Council, in its resolution 1992/22, section I, inter alia, reaffirmed the request of the General Assembly to the Secretary-General to take the necessary measures to commit the human and financial resources required to strengthen the programme as a whole so as to enable it:

(a) To devote greater attention to helping States upon request to identify their crime prevention and criminal justice needs and address them through technical cooperation, including the improvement of legislation and procedures, the elaboration of criminal codes, the improved planning and formulation of national policies concerning crime prevention and criminal justice strategies, acceleration of human resources development in specialized fields, and assisting with the practical implementation of United Nations standards, norms and guidelines in crime prevention and criminal justice;

(b) To contribute to the preservation and reinforcement of democracy and justice based on the rule of law, taking appropriate account of United Nations norms and standards concerning crime prevention, criminal justice, law enforcement and protection of victims, as well as means of conflict resolution and mediation.

31. The Council, in its resolution 1992/22, section VI, determined the priority themes that should guide the work of the Commission in the development of a detailed programme. As the implementation of standards and norms is intrinsically interlinked with all the programme priorities, the Council, in its resolution 1992/22, section VII, decided that the Commission should include in its agenda, beginning with its second session, a standing item on the existing United Nations standards and norms in the field of crime prevention and criminal justice, including their use and application.

IV. MODALITIES OF IMPLEMENTATION

A. Technical cooperation and other activities

32. As regards the modalities of implementation, including technical cooperation, advisory services, peace-keeping and peace-building assistance aimed at criminal justice and law reform and training programmes, and the need to further strengthen those activities, reference should be made to the progress report of the Secretary-General on the implementation of Economic and Social Council resolution 1992/22 and the report of the Secretary-General on the need to identify the most practical course of action to fully operationalize the United Nations crime prevention and criminal justice programme and enable it to respond to the specific needs of Governments, including financial possibilities (E/CN.15/1993/5). Other means of achieving those aims include the activities of the Interregional Adviser and the Regional Adviser (Asia and Pacific) in Crime Prevention and Criminal Justice and of the United Nations Interregional Crime and Justice Research Institute (UNICRI), as well as the relevant affiliated and associated institutes. Their contributions, which are crucial, are dealt with in the progress report of the Secretary-General on the implementation of Economic and Social Council resolution 1992/22 and in the report on the activities of UNICRI and other institutes (E/CN.15/1993/8).

B. Cooperation with other United Nations entities

33. The application of United Nations standards and norms in crime prevention and criminal justice and of the model treaties is related to efforts to prevent and respond to criminality more effectively, with due respect for human rights. Implementation might be one of the key areas that need close cooperation with other United Nations programmes.

1. Drug control programme

34. The Commission on Narcotic Drugs, in its resolution 11 (XXXV) of 15 April 1992, inter alia, welcomed, the establishment of the Commission on Crime Prevention and Criminal Justice and decided to cooperate actively with it to increase the efficiency and effectiveness of United Nations activities in areas of mutual concern and interest. It also requested the Executive Director of the United Nations International Drug Control Programme (UNDCP) to prepare suggestions on how cooperation with the Commission on Crime Prevention and Criminal Justice could be most effectively realized.

35. The Economic and Social Council, in its resolution 1992/22, section IV, requested the Commission on Crime Prevention and Criminal Justice to cooperate with other bodies whose activities might have crime prevention and criminal justice aspects, such as the Commission on Narcotic Drugs.

36. Accordingly, the Crime Prevention and Criminal Justice Branch of the Centre for Social Development and Humanitarian Affairs of the Secretariat has intensified its cooperation with United Nations International Drug Control Programme, particularly with regard to the coordination of technical cooperation activities. Consultations are regularly held to identify areas for fruitful cooperation and to plan joint or coordinated activities, including the sharing of information, even at the conceptual stage of projects, in order to increase their impact. Cooperation is planned and has taken place in fact-finding and needs assessment missions exercise, for example, in Albania. Joint technical assistance projects are being planned, for example, in the area of money-laundering. Cooperative involvement in, and coordination of, training activities is particularly important in view of the large number of bilateral training initiatives currently under way that are of interest to both programmes.

37. Additional collaborative projects that have been carried out with UNDCP include the establishment of courts dealing with substance abuse in Bolivia; the strengthening of law enforcement and mutual assistance in criminal matters in the Caribbean; a seminar for Latin American judges and prosecutors; and a workshop on the implementation of existing drug control conventions in Africa.

2. Social development

38. According to the Declaration on Social Progress and Development, annexed to General Assembly resolution 2542 (XXIV) of 11 December 1969, the attainment of social progress and development requires, inter alia, the provision of social defence measures and the elimination of conditions leading to crime and delinquency, *especially juvenile delinquency*.

39. Accordingly, in many United Nations standards in crime prevention and criminal justice, such as the Standard Minimum Rules for the Treatment of Prisoners, the emphasis is on social aspects. Ever since the Standard Minimum Rules for the Treatment of Prisoners were adopted by the First Congress,

special attention has been accorded in the elaboration and implementation of standards to social issues, such as the important role of the family in crime prevention; the enhancement of social integration, particularly of the more disadvantaged and marginalized groups; and the promotion of programmes to ensure social justice and legal protection, effective social services and adequate education and training for different sectors in society. This is evidenced, for example, by various provisions contained in the United Nations Standards Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules) and the United Nations Guidelines for the Prevention of Juvenile Delinquency (The Riyadh Guidelines), the fundamental perspectives of which include the furthering of the well-being of the juvenile and the family and the development of conditions that will ensure for the juvenile a meaningful life and opportunities for socially useful activities in the community. Furthermore, the United Nations Rules for the Protection of Juveniles Deprived of their Liberty, the Basic Principles for the Treatment of Prisoners and the United Nations Standard Minimum Rules for Non-custodial Measures (The Tokyo Rules) all emphasize the need for the creation of favourable conditions for the reintegration of the offender into society.

40. The General Assembly, in its resolution 47/92 of 16 December 1992, decided to convene a world summit for social development in early 1995; that decision is of particular relevance to the United Nations crime prevention and criminal justice programme as a whole, including its work on the implementation of standards and norms. In order to further enhance the application and use of those instruments, close cooperation will be maintained between the units of the Secretariat dealing with various aspects relating to social development, including social welfare, youth, ageing and disabled persons.

3. Human rights programme

41. The World Conference on Human Rights, to be held at Vienna from 14 to 25 June 1993, will provide an opportunity to emphasize the need for the protection of human rights in all facets of the daily administration of criminal justice and to promote mutual cooperation among United Nations entities. A substantial number of issues in the criminal justice context clearly have human rights implications. Examples of areas of focus with human rights and criminal justice implications include treatment of prisoners; non-custodial sanctions; torture and extra-legal executions; use of force and firearms by law enforcement officials; juvenile justice; protection of victims; domestic violence; independence of the judiciary; and roles of prosecutors and lawyers. In view of the requirements of Member States to effectively apply many of the existing standards, the World Conference on Human Rights might be invited to give due priority to those issues (i.e. criminal justice and human rights combined).

42. The implementation of United Nations standards and norms and the model treaties in crime prevention and criminal justice relates to efforts to combat criminality more effectively, to make criminal justice more efficient and also more humane and to promote and encourage respect for human rights and fundamental freedoms. Standards developed under the United Nations crime prevention and criminal justice programme are frequently referred to by various human rights bodies, such as the Commission on Human Rights and its subsidiary bodies, including the Human Rights Committee, the Committee against Torture and the Committee on the Rights of the Child. The Centre for Human Rights of the Secretariat and the Crime Prevention and Criminal Justice Branch cooperate closely with one another in carrying out their activities.

43. While most United Nations standards and norms in crime prevention and criminal justice have human rights aspects, many instruments developed under the United Nations human rights programme are closely related to the administration of justice; examples of such instruments include the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Convention on the Rights of the Child (General Assembly resolution 44/25 of 20 November 1989), the Principles of Medical Ethics relevant to the role of health personnel, particularly physicians, in the protection of prisoners and detainees against torture and other cruel, inhuman or degrading treatment or punishment (General Assembly resolution 37/194 of 18 December 1982) and the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment (General Assembly resolution 43/173 of 9 December 1988). These and other instruments are of concern to both the United Nations crime prevention and criminal justice programme and the United Nations human rights programme, and their implementation is best achieved by close cooperation between both programmes. Given the limited resources, even closer coordination and complementary distribution of tasks will be necessary to optimize efforts.

44. The attention of the Commission is drawn to General Assembly resolution 46/120 17 December 1991, in which the General Assembly recognized the significant work accomplished in the area of human rights in the administration of justice under the United Nations crime prevention and criminal justice programme. Further to this resolution, the Commission on Human Rights, in its resolution 1992/31 of 28 February 1992, invited the Commission on Crime Prevention and Criminal Justice, at its first session, to explore ways and means of cooperating with the human rights programme in the field of the administration of justice, with special emphasis on the effective implementation of standards and norms.

45. The Economic and Social Council, in its resolution 1992/22, section IV, requested the Commission on Crime Prevention and Criminal Justice to cooperate closely with, inter alia, the Commission on Human Rights. In the same resolution, the Council requested the Secretary-General to strengthen cooperation between the Centre for Human Rights and the Centre for Social Development and Humanitarian Affairs, including in particular in the preparations for the World Conference on Human Rights and in the coordination of the various technical advisory services provided by both Centres, in order to undertake joint programmes and strengthen existing mechanisms for the protection of human rights in the administration of justice.

46. To facilitate active cooperation between (a) the Commission on Human Rights and the Subcommission on Prevention of Discrimination and Protection of Minorities and (b) the Commission on Crime Prevention and Criminal Justice, the inter-sessional working group on the methods of work of the Subcommission established pursuant to Commission on Human Rights resolution 1992/66 of 4 March 1992, proposed, inter alia, that the chairpersons of the Subcommission, the Committee on the Elimination of Racial Discrimination, the Human Rights Committee and the Commission on Crime Prevention and Criminal Justice should take part in the post-sessional meeting of the Bureau of the Commission on Human Rights, in order to consider items of their agendas that might interact, to identify issues of common interest and to formulate proposals, with a view to improving coordination (E/CN.4/Sub.2/1992/3).

47. The working group also proposed that its Chairperson should transmit to the Subcommission, with a view to forwarding it to the Commission on Human Rights and the Commission on Crime Prevention and Criminal Justice, a

memorandum, prepared in cooperation with the secretariats of the two commissions and in consultation with their respective chairpersons, that would contain an overview of subjects of common interest, a comparative analysis of the agendas of the two commissions and proposals for a better distribution of tasks.

48. One example of the need for greater coordination can be gleaned from Subcommission resolution 1992/38 of 28 August 1992, in which the Subcommission decided, to entrust the Special Rapporteur on the Independence of the Judiciary and the Protection of Practising Lawyers with the preparation of a report:

(a) To bring to the attention of the Subcommission information on practices and measures which have served to strengthen or to weaken the independence of the judiciary and the protection of practising lawyers in accordance with United Nations standards;

(b) To propose specific recommendations regarding the independence of the judiciary and the protection of practising lawyers to be taken into account in the advisory services and technical assistance programmes and projects of the United Nations and, in that regard, to follow up the recommendations contained in a report of the Special Rapporteur (E/CN.4/Sub.2/1991/30 and Add.1-4);

(c) To examine the ways and means of enhancing cooperation and avoiding overlapping and duplication in the work of the Commission on Crime Prevention and Criminal Justice and that of the Subcommission.

4. International Law Commission

49. The Economic and Social Council, in its resolution 1992/22, section IV, of 30 July 1992, also requested the Commission on Crime Prevention and Criminal Justice to cooperate closely with the International Law Commission. One area of immediate common interest is the possible establishment of an international criminal jurisdiction.

50. The General Assembly, in its resolution 47/33 of 25 November 1992, requested the International Law Commission to undertake, as a matter of priority, the elaboration of a draft statute for an international criminal court. The Crime Prevention and Criminal Justice Branch has participated in international conferences on the subject, including the World Conference on the Establishment of an International Criminal Tribunal to Enforce International Criminal Law and Human Rights, held at Siracusa, Italy, from 2 to 5 December 1992 under the auspices of the International Institute for Higher Studies in the Criminal Sciences; it also plans to participate in the International Meeting on the Establishment of an International Criminal Court, to be held at Vancouver, Canada, from 22 to 27 March 1993 under the auspices of the International Centre for Criminal Law Reform and Criminal Justice Policy. Draft statutes for an international criminal court have been developed by the International Law Association and the Institute at Siracusa.

51. The reports of those meetings are made available to the Commission on Crime Prevention and Criminal Justice as conference room papers to enable it to transmit its views to the International Law Commission.

5. Other United Nations entities

52. Other United Nations entities also have activities with crime prevention and criminal justice aspects. Thus, for example, the Crime Prevention and

Criminal Justice Branch has cooperated with the Division for the Advancement of Women of the Secretariat on issues related to violence and with the United Nations Educational, Scientific and Cultural Organization on issues related to the protection of cultural property. Such cooperation provides further avenues for implementation of norms, standards, guidelines and other instruments developed under the United Nations crime prevention and criminal justice programme.

C. Cooperation with non-governmental organizations

53. Non-governmental organizations have contributed significantly to the development of many of United Nations standards and norms in the field of crime prevention and criminal justice. For example, the Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, and the Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions were joint initiatives undertaken in collaboration with interested non-governmental organizations.

54. Non-governmental organizations have also promoted the implementation of United Nations standards and norms in the field by holding seminars and meetings, conducting individual research and studies, and publishing reports and manuals on such implementation. For example, the Crime Prevention and Criminal Justice Branch is preparing, in collaboration with the Minnesota Lawyers' International Human Rights Committee, a manual on international standards on pre-trial detention; in addition, with the assistance of the Friends World Committee for Consultation, the Branch is conducting a study on long-term prisoners. The International League for Human Rights, Amnesty International and the World Organization against Torture (SOS-Torture) have drawn attention to the torture and other mistreatment of prisoners, which violate the Standard Minimum Rules for the Treatment of Prisoners. Organizations such as the International Commission of Jurists, the International Association of Judges and the International Bar Association have sought to promote the Basic Principles on the Independence of the Judiciary and the Basic Principles on the Role of Lawyers. In addition, an international association of prosecutors is being established with a view to, inter alia, promoting the United Nations Guidelines on the Role of Prosecutors.

55. Non-governmental organizations continue to provide assistance to the United Nations crime prevention and criminal justice programme. The Asia Crime Prevention Foundation, in cooperation with the International Penal and Penitentiary Foundation and the Asia and Far East Institute for the Prevention of Crime and the Treatment of Offenders, has financially supported the dissemination of the United Nations Standard Minimum Rules for Non-custodial Measures (The Tokyo Rules). Defence for Children International Movement and Räddä Barnen International have propagated the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules) and the United Nations Rules for the Protection of Juveniles Deprived of their Liberty, as well as the United Nations Guidelines for the Prevention of Juvenile Delinquency. The World Society of Victimology, the World Federation for Mental Health and other organizations have promoted the implementation of the United Nations standards on protection of victims, including the development of a core curriculum for training different categories of personnel. Other organizations, such as the Howard League for Penal Reform, Penal Reform International, Caribbean Rights and the Henri Dunant Institute have aimed at ensuring more appropriate correctional treatment and at improving prison

conditions, in accordance with United Nations standards. The Alliances of non-governmental organizations on crime prevention and criminal justice based in New York and at Vienna are particularly active, as are their members and other organizations in all regions of the world. For instance, the Alliance of NGOs on Crime Prevention and Criminal Justice (Vienna) has a special interest in the use and application of United Nations standards and norms in crime prevention and criminal justice; and The Alliance of NGOs on Crime Prevention and Criminal Justice (New York) has conducted surveys on health care in prisons.

56. Non-governmental organizations can play a crucial part in initiating and implementing development projects, supplementing the efforts of Governments and greatly broadening the base of international cooperation.

57. The recommendations of United Nations policy-making bodies for closer cooperation with relevant non-governmental organizations as a means of extending the base of the United Nations crime prevention and criminal justice programme resulted in the establishment in 1991 of the International Scientific and Professional Advisory Council at the Centro Nazionale di Prevenzione e Difesa Sociale at Milan. Through expert meetings, workshops, training programmes, research projects, clearing-house services and outreach activities, the constituent non-governmental organizations seek, inter alia, to increase awareness of United Nations standards, norms and model treaties in crime prevention and Criminal Justice and to promote their application.

V. CONCLUSIONS

58. United Nations norms, standards, guidelines and model treaties represent internationally agreed upon principles of desirable practice against which countries can assess their own systems and contribute to the concept of an international rule of law. Although some countries have gone beyond United Nations standards, others are striving to reach them. The United Nations standards represent a distillation of expert advice and government recommendations that can serve as a basis for adjusting national policies and as training materials for different categories of personnel. The United Nations institutes for crime prevention and criminal justice have used them extensively in their training programmes. In many countries they are part of the training materials, and in some countries they have been translated into the local languages. The wider dissemination of the United Nations standards would enhance their impact, as would commentaries and manuals on their use.

59. The United Nations standards can serve as a basis both for domestic legislation and for bilateral or multilateral cooperation against national and transnational forms of crime. United Nations model treaties can facilitate the harmonization of legislation and adoption of common strategies and can be used in joint training administered to criminal justice personnel.

60. The present report is designed to reflect the strong interest of Member States in the use and application of existing United Nations standards and norms in crime prevention and criminal justice. Consideration might be given to exploring ways and means of facilitating joint practical action by Member States in areas of common concern. A more effective and reliable implementation system could be developed.

61. In particular, the Commission may wish:

(a) To reaffirm the importance of the effective implementation of United Nations norms, standards, guidelines and model treaties in crime prevention and criminal justice, while recognizing the social, cultural and economic disparities that may restrict some Member States from fully doing so;

(b) To invite Governments to pay due attention to the norms, standards and guidelines and to promote their widest possible dissemination;

(c) To suggest appropriate means of assisting Member States, at their request, in implementing existing United Nations norms, standards, guidelines and model treaties in crime prevention and criminal justice;

(d) To specify modalities to strengthen activities in crime prevention and criminal justice, including advisory services, training courses and fellowships;

(e) To give consideration to the means of effectively monitoring implementation through reporting;

(f) To propose ways and means of promoting the widest possible dissemination of the texts of the standards contained in the Compendium of United Nations Standards and Norms in Crime Prevention and Criminal Justice, 2/ which is currently available only in English, and to encourage its publication in the other five official United Nations languages;

(g) To continue to give special attention to the application and use of United Nations instruments in crime prevention and criminal justice.

62. The Commission might wish to consider establishing an open-ended working group, in accordance with the rules of procedure of the functional commissions of the Economic and Social Council (E/5975/Rev.1) and subject to the consideration of financial implications, bearing in mind the useful experience of the pre-sessional working group of the Committee on Crime Prevention and Control at its eleventh session. The working group could be composed of 5-10 members and could meet for a period of two or three days prior to future sessions of the Commission in order to consider and suggest to Member States measures on the use and application of existing United Nations standards and norms in crime prevention and criminal justice. Participants in the meetings of the Commission could participate in the pre-sessional meetings, at their own expense, if they desired to do so.

63. As it would be too late for the establishment of a pre-sessional working group of the Commission at its second session, the Commission may wish to establish an open-ended in-sessional working group, in accordance with paragraph 23 of the annex to General Assembly resolution 46/152. The sooner the Commission establishes an in-sessional working group, the sooner the working group may begin its work.

64. Should the Commission at its second session establish a working group, that working group may wish to take into account ideas contained in Economic and Social Council resolutions 1990/21 and 1992/22 and consider, inter alia, the following issues:

(a) Measures to increase the level of support for programmes of technical cooperation and advisory services in crime prevention and criminal justice to permit more effective implementation, including special projects designed

and carried out at the country level and more active involvement of potential funding agencies;

(b) The role of the United Nations in promoting the implementation of existing standards, including modalities for strengthening existing review procedures;

(c) The growing burden imposed on many States by the expansion of reporting obligations, and the need for technical assistance;

(d) The problem of inadequate reporting or excessive delays;

(e) The question of additional or alternative sources of information;

(f) Measures to improve information dissemination and education and other measures to enhance implementation.

Notes

1/ See Human Rights: A Compilation of International Instruments (United Nations publication, Sales No. E.88.XIV.1), sect. G.

2/ United Nations publication, Sales No. E.92.IV.1.

Annex I

UNITED NATIONS STANDARDS, NORMS, GUIDELINES AND MODEL TREATIES IN CRIME PREVENTION AND CRIMINAL JUSTICE

Treatment of offenders

Standard Minimum Rules for the Treatment of Prisoners a/

Basic Principles for the Treatment of Prisoners (General Assembly resolution 45/111, annex, of 14 December 1990)

United Nations Standard Minimum rules for Non-custodial Measures (The Tokyo Rules) (General Assembly resolution 45/110, annex, of 14 December 1990)

Law enforcement and the judiciary

Code of Conduct for Law Enforcement Officials (General Assembly resolution 34/169 of 17 December 1979)

Basic Principles on the Use of Force and Firearms by Law Enforcement Officials b/

Basic Principles on the Independence of the Judiciary c/

Basic Principles on the Role of Lawyers d/

Guidelines on the Role of Prosecutors e/

Juvenile justice

United Nations Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules), (General Assembly resolution 40/33, annex, of 29 November 1985)

United Nations Guidelines for the Prevention of Juvenile Delinquency (The Riyadh Guidelines) (General Assembly resolution 45/112, annex, of 14 December 1990)

United Nations Rules for the Protection of Juveniles Deprived of their Liberty (General Assembly resolution 45/113, annex, of 14 December 1990)

Protection of victims

Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power (General Assembly resolution 40/34, annex, of 29 November 1985)

Capital punishment

Safeguards guaranteeing protection of the rights of those facing the death penalty (Economic and Social Council resolution 1984/50, annex, of 15 May 1984)

Torture and other cruel, inhuman or degrading treatment or punishment, extra-legal executions

Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (General Assembly resolution 3452 (XXX), annex, of 9 December 1975)

Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions (Economic and Social Council resolution 1989/65, annex, of 24 May 1989)

Model treaties

Model Treaty on Extradition (General Assembly resolution 45/116, annex, of 14 December 1990)

Model Treaty on Mutual Assistance in Criminal Matters (General Assembly resolution 45/117, annex, of 14 December 1990)

Model Treaty on the Transfer of proceedings in Criminal Matters (General Assembly resolution 45/118, annex, of 14 December 1990)

Model treaty for the prevention of crimes that infringe on the cultural heritage of peoples in the form of movable property f/

Notes

a/ See First United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Geneva, 22 August-3 September 1955: report prepared by the Secretariat (United Nations publication, Sales No. 1956.IV.4), annex I.A.

b/ Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, 27 August-7 September 1990: report prepared by the Secretariat (United Nations publication, Sales No. E.91.IV.2), chap. I, sect. B.2, annex.

c/ Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Milan, 26 August-6 September 1985: report prepared by the Secretariat (United Nations publication, Sales No. E.86.IV.1), chap. I, sect. D.2, annex.

d/ Eighth United Nations Congress ..., chap. I, sect. B.3, annex.

e/ Ibid., sect. C.26, annex.

f/ Ibid, sect. A.13, annex.

Annex II

REPORTING CYCLES OF UNITED NATIONS STANDARDS, NORMS, GUIDELINES AND MODEL TREATIES IN CRIME PREVENTION AND CRIMINAL JUSTICE MANDATED PRIOR TO THE ESTABLISHMENT OF THE COMMISSION ON CRIME PREVENTION AND CRIMINAL JUSTICE

Standard Minimum Rules for the Treatment of Prisoners and the Procedures for the Effective Implementation of the Standard Minimum Rules for the Treatment of Prisoners

Mandate: General Assembly resolutions 2858 (XXVI) of 20 December 1971, 3144 B (XXVIII) of 14 December 1973 and 3218 (XXIX) of 6 November 1974 and Economic and Social Council resolutions 663 C (XXIV) of 31 July 1957, 2076 (LXII) of 13 May 1977 and 1984/47 of 25 May 1984
Reporting cycle: quinquennial
Last report submitted: 1990
Next report due: 1995

Capital punishment

Mandate: General Assembly resolution 2857 (XXVI) of 20 December 1971 and Economic and Social Council resolution 1745 (LIV) of 16 May 1973
Reporting cycle: quinquennial
Last report submitted: 1990
Next report due: 1995

In future, the report on the question of capital punishment will also cover the implementation of the safeguards guaranteeing protection of the rights of those facing the death penalty, in accordance with Economic and Social Council resolution 1989/64 of 24 May 1989.

Code of Conduct for Law Enforcement Officials and the Guidelines for the Effective Implementation of the Code of Conduct for Law Enforcement Officials

Mandate: General Assembly resolution 34/169 of 17 December 1979 and Economic and Social Council resolutions 1986/10, section IX, of 21 May 1986 and 1989/61 of 24 May 1989
Reporting cycle: quinquennial
Last report submitted: 1988
Next report due: 1993

Safeguards guaranteeing protection of the rights of those facing the death penalty

Mandate: Economic and Social Council resolution 1984/50 of 25 May 1984, 1986/10, section X, and 1989/64
Last report submitted: 1988

Subsequent reports to be included in the quinquennial reports on capital punishment (see above entry).

United Nations Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules)

Mandate: General Assembly resolution 40/33 of 29 November 1985
Reporting cycle: quinquennial
Last report submitted: 1990
Next report due: 1993

Basic Principles on the Independence of the Judiciary and the Procedures for the Effective Implementation of the Basic Principles on the Independence of the Judiciary

Mandate: Economic and Social Council resolutions 1986/10, section V, and 1989/60 of 24 May 1989
Reporting cycle: quinquennial
Last report submitted: 1990
Next report due: 1995

Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power

Mandate: General Assembly resolution 40/34 of 29 November 1985 and Economic and Social Council resolutions 1986/10, section III, and 1989/57 of 24 May 1989
Last report submitted: 1990

The Secretary-General is requested to invite Member States to report periodically to the General Assembly on the implementation of the Declaration.

Model Agreement on the Transfer of Foreign Prisoners and recommendations on the treatment of foreign prisoners

Mandate: General Assembly resolution 40/32 of 29 November 1985.
Reporting cycle: "regularly" to the former Committee on Crime Prevention and Control.
No report has been submitted.

Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions

Mandate: Economic and Social Council resolution 1989/65 of 24 May 1989

The former Committee was requested to keep the implementation of the principles under constant review.

United Nations Standard Minimum Rules for Non-custodial Measures (The Tokyo Rules)

Mandate: General Assembly resolution 45/110 of 14 December 1990
Reporting cycle: quinquennial
First report due: 1994

United Nations Guidelines for the Prevention of Juvenile Delinquency (The Riyadh Guidelines)

Mandate: General Assembly resolution 45/112 of 14 December 1990
Reporting cycle: "regularly" to the former Committee

The former Committee was recommended to request the Ninth United Nations Congress on the Prevention of Crime and the Treatment of Offenders to review the progress made in the promotion and application of the Guidelines.

United Nations Rules for the Protection of Juveniles Deprived of their Liberty

Mandate: General Assembly resolution 45/113 of 14 December 1990
Reporting cycle: "regularly" to the former Committee

The former Committee was recommended to request the Ninth Congress to review the progress made in the promotion and application of the Rules.

Basic Principles on the Use of Force and Firearms by Law Enforcement Officials

Mandate: Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders and General Assembly resolution 45/121 of 14 December 1990
Reporting cycle: quinquennial
First report due: 1992

Basic Principles on the Role of Lawyers

Mandate: Eighth Congress and General Assembly resolution 45/121
Reporting cycle: quinquennial
First report due: 1992

Guidelines on the Role of Prosecutors

Mandate: Eighth Congress and General Assembly resolution 45/121
Reporting cycle: quinquennial
First report due: 1993

Model Treaty on Extradition

Mandate: General Assembly resolution 45/116 of 14 December 1990
Reporting cycle: "periodically" to the former Committee
No report has been submitted.

Model Treaty on Mutual Assistance in Criminal Matters

Mandate: General Assembly resolution 45/117 of 14 December 1990
Reporting cycle: "periodically" to the former Committee
No report has been submitted.

Model Treaty on the Transfer of Proceedings in Criminal Matters

Mandate: General Assembly resolution 45/118 of 14 December 1990
Reporting cycle: "periodically" to the former Committee
No report has been submitted.

Model Treaty for the prevention of crimes that infringe on the cultural heritage of peoples in the form of movable property

Mandate: Eighth Congress and General Assembly resolution 45/121
Reporting cycle: "periodically" to the former Committee
No report has been submitted.

Annex III

NUMBER OF MEMBER STATES REPLYING TO UNITED NATIONS QUESTIONNAIRES ON CRIME PREVENTION AND CRIMINAL JUSTICE

Subject of questionnaire	Report symbol	Body to which report was submitted (and year) a/	Number of Member States that submitted replies a/
Standard Minimum Rules for the Treatment of Prisoners and the Procedures for the Effective Implementation of the Standard Minimum Rules for the Treatment of Prisoners	A/CONF.43/3, annex	Fourth Congress (1970)	44
	A/CONF.56/6, annex I	Fifth Congress (1975)	63
	A/CONF.87/11	Sixth Congress (1980)	49
	A/CONF.121/15	Seventh Congress (1985)	58
	A/CONF.144/11	Eighth Congress (1990)	49
Capital punishment	E/5616 and Add.1 and Corr.1 and 2	Council (1975)	49
	E/1980/9 and Corr.1 and 2 and Add.1 and Corr.1 and Add.2 and 3	Council and Sixth Congress (1980)	74
	E/1985/43 and Corr.1	Council and Seventh Congress (1985)	64
	E/1990/38/Rev.1 and Corr.1	Council and Eighth Congress (1990)	55
Code of Conduct for Law Enforcement Officials and the Guidelines for the Effective Implementation of the Code of Conduct for Law Enforcement Officials	A/CONF.121/12 and Add.1	Seventh Congress (1985)	62
	E/AC.57/1988/8 and Add.1/Rev.1	Committee (1988)	51
Safeguards guaranteeing protection of the rights of those facing the death penalty	E/AC.57/1988/9 and Corr.1 and 2	Committee (1988)	74

United Nations Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules)	E/AC.57/1988/11 A/CONF.144/4	Committee (1988) Eighth Congress (1990)	34 51
Basic Principles on the Independence of the Judiciary and the Procedures for the Effective Implementation of the Basic Principles on the Independence of the Judiciary	A/CONF.144/19 and Corr.1	Eighth Congress (1990)	72
Declaration of Basic Principles of Justice of Victims of Crime and Abuse of Power	E/AC.57/1988/3	Committee (1988)	21
Alternatives to imprisonment and reduction of the prison population	A/CONF.144/12	Eighth Congress (1990)	70

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a/ "Congress" refers to a United Nations congress on the prevention of crime and the treatment of offenders; "Council" refers to the Economic and Social Council; and "Committee" refers to the Committee on Crime Prevention and Control at its tenth session.